

FILED

DEC 22 2006

Kevin Schmitt

CLERK OF THE
INDIANA SUPREME COURT
COURT OF APPEALS
AND TAX COURT

ORDER APPROVING AMENDED LOCAL RULE

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Thomas J. Felts, Allen Circuit Court, 715 S. Calhoun Street, #300, Fort Wayne, IN 46802-1816; the Hon. David Avery, Allen Superior Court (Civil), 715 S. Calhoun Street, #319, Fort Wayne, IN 46802-1805; the Hon. Nancy Eshcoff Boyer, Allen Superior Court (Civil), 715 S. Calhoun Street, #325, Fort Wayne, IN 46802-1805; the Hon. Frances C. Gull, Allen Superior Court (Criminal), 715 S. Calhoun Street, #314, Fort Wayne, IN

46802-1805; the Hon. Daniel G. Heath, Allen Superior Court, 715 S. Calhoun Street, #316, Fort Wayne, IN 46802-1805; the Hon. Stanley A. Levine, Allen Superior Court (Civil), 715 S. Calhoun Street, #317, Fort Wayne, IN 46802-1805; the Hon. Charles F. Pratt, Allen Superior Court, 715 S. Calhoun Street, #208, Fort Wayne, IN 46802-1805; the Hon. Kenneth R. Scheibenberger, Allen Superior Court (Criminal), 715 S. Calhoun Street, #305, Fort Wayne, IN 46802-1805; the Hon. Stephen M. Sims, Allen Superior Court (Family Relations Div.), 2929 Wells Street, Room #114, Fort Wayne, IN 46808; the Hon. John F. Surbeck, Jr., Allen Superior Court, 715 S. Calhoun Street, #302, Fort Wayne, IN 46802-1805; and to the Clerk of the Allen County Courts.

The Clerk of the Allen County Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 22nd day of December 2006.

A handwritten signature in dark ink, reading "R. T. Shepard". The signature is written in a cursive style with a horizontal line underneath the name.

Randall T. Shepard
Chief Justice of Indiana

2006/2007 CASELOAD ALLOCATION PLAN FOR ALLEN COUNTY COURTS

The courts in Allen County are organized under IC 33-33-2 which specifies that, in addition to the judge of the Allen circuit court, the Allen superior court consists of nine (9) judges serving in three (3) divisions as follows:

- (1) Two (2) judges serve in the family relations division.
- (2) Three (3) judges serve in the criminal division.
- (3) Four (4) judges serve in the civil division.

The statute further specifies the number of magistrates, referees and hearing officers serving the Allen Circuit court and the criminal and civil divisions of the Allen superior court as follows:

Circuit Court

One (1) full-time magistrate.

One (1) hearing officer.

Superior Court – Civil Division

Up to four (4) full-time magistrates.

Superior Court Criminal Division

Up to three (3) full-time magistrates.

In addition, the Superior Court Family Relations Division has three (3) full-time magistrates and one (1) juvenile referee. Thus, in total, the courts in Allen County consist of a total of ten (10) judges and thirteen (13) additional judicial officers.

By statute and by local rule, certain case types are heard in the Circuit Court and within each division of the Superior Court. The result of this, in terms of caseload distribution and weighted caseload analysis (using 2005 filing statistics), is as follows:

2005 Weighted Caseload / Utilization Factor

(maximum allowable caseload differential: 0.40)

	<u>Judge</u>	<u>Need</u>	<u>Have</u>	<u>Utiliz.</u>
Circuit	Thomas J. Felts	4.70	3.00	1.57
Superior 1	Nancy Eshcoff Boyer	2.17	2.00	1.08
Superior 2	Daniel G. Heath	2.15	2.00	1.08
Superior 3	Stanley A. Levine	2.19	2.00	1.09
Superior 4	Kenneth R. Scheibenberger	2.72	2.00	1.36
Superior 5	Frances C. Gull	2.88	2.00	1.44
Superior 6	John F. Surbeck, Jr.	2.70	2.00	1.35
Superior 7	Stephen M. Sims	3.67	3.00	1.22
Superior 8	Charles F. Pratt	2.79	3.00	0.93
Superior 9	David J. Avery	2.45	2.00	1.22

Differential: Circuit - Superior 8 0.64

A difference in the utilization factor between Circuit Court and Superior 8 in 2005 was .64. This is consistent with the caseload differential in 2004 and requires that the courts in Allen County develop a caseload distribution plan to reduce the caseload differential to a level within the maximum allowable difference of .40.

To address this, the courts have targeted a sub-set of DR cases, *pro se* cases, where an uneven distribution of cases has directly contributed to caseload distribution problems in Allen County.

Pro Se DR Filings

	<u>2004</u>	<u>2005</u>
Circuit	483	470
Superior	75	64
	<u>558</u>	<u>534</u>

Circuit by %	86.56%	88.01%
Superior by %	13.44%	11.99%

By identifying and resolving the uneven distribution of *pro se* DR cases between Circuit Court and Superior 8, the courts in Allen County come into compliance with the caseload

distribution standard established by the Supreme Court. The effect of evenly distributing pro se DR filings between Circuit Court and Superior 8 is demonstrated below:

2005 Weighted Caseload / Utilization Factor adjusted for pro se DR

(maximum allowable caseload differential: 0.40)

	<u>Judge</u>	<u>Need</u>	<u>Have</u>	<u>Utiliz.</u>
Circuit	Thomas J. Felts	4.23	3.00	1.41
Superior 1	Nancy Eshcoff Boyer	2.17	2.00	1.08
Superior 2	Daniel G. Heath	2.15	2.00	1.08
Superior 3	Stanley A. Levine	2.19	2.00	1.09
Superior 4	Kenneth R. Scheibenberger	2.72	2.00	1.36
Superior 5	Frances C. Gull	2.88	2.00	1.44
Superior 6	John F. Surbeck, Jr.	2.70	2.00	1.35
Superior 7	Stephen M. Sims	3.67	3.00	1.22
Superior 8	Charles F. Pratt	3.25	3.00	1.08
Superior 9	David J. Avery	2.45	2.00	1.22

Differential: Superior 5 - Superior 1, 2, 8 0.35

This approach to caseload distribution accomplishes the desired goal with minimal disruption to courts, divisions, litigants and the legal community in Allen County, and is recommended for approval.¹

¹ Over and above the even distribution of *pro se* DR cases between Circuit Court and Superior 8 in the proposal above, the court also anticipates an additional number of DR filings in Superior 8 filed by the State of Indiana for enforcement purposes.